

IN THE MATTER OF
TYRONE FRISBY
MORTGAGE ORIGINATOR LICENSEE
Respondent

BEFORE THE COMMISSIONER
OF
FINANCIAL REGULATION
Case No. DFR-EU-2007-103

* * * * *

STATEMENT OF THE CASE

The hearing on the above captioned matter was held on March 11, 2008, and heard by the Deputy Commissioner of Financial Regulation, Joseph E. Rooney ("Deputy Commissioner"). This matter was scheduled for a hearing as a result of a charge letter issued by the Office of the Commissioner of Financial Regulation alleging that Tyrone Frisby ("Respondent"), a Maryland Mortgage Originator licensee, violated Maryland Code Ann., Fin. Inst. ("FI") §§ 11-615(a)(3) and 11-615(a)(5). [CFR 4]. In particular, the charges allege that Respondent submitted a loan application on behalf of the prospective borrowers, [REDACTED] and [REDACTED] (hereafter collectively referred to as the "[REDACTED]"), to EquiFirst Corporation without the [REDACTED] knowledge, which application contained "false information about the [REDACTED] income" which significantly overstated the approximate gross monthly income of the [REDACTED]. [CFR 4]. Respondent was not represented by counsel. Kris King, Assistant Attorney General, appeared as presenter of evidence on behalf of the Office of the Commissioner. Christopher J. Young, Assistant Attorney General, served as counsel to the Deputy Commissioner. The proceedings were electronically recorded.

SUMMARY OF THE EVIDENCE

Exhibits

- The Office of the Commissioner of Financial Regulation submitted the following documents which were admitted into evidence:

CFR 1-Hearing Notice (postponed hearing date) dated February 4, 2008, with certified-mail receipt.

CFR 2-Original Hearing Notice dated January 9, 2008.

CFR 3-Letter from the Office of Commissioner dated February 1, 2008 granting postponement.

CFR 4-Charge letter dated December 11, 2007, with certified-mail receipt.¹

CFR 5-Licensing information printout for Respondent from Commissioner's computer database.

CFR 6-Copies of assorted 2004 pay stubs for [REDACTED] and [REDACTED].

CFR 7-Copies of 2005 IRS W2 forms for [REDACTED] and [REDACTED].

CFR 8-Copies of assorted 2006 pay stubs for [REDACTED] and [REDACTED].

CFR 9-Copy of a uniform residential loan application (filled out by hand) for a \$585,000 loan/subject property [REDACTED] Glenn Dale, MD 20769

CFR 10-Copy of a uniform residential loan application (typed) for a \$585,000 loan/subject property [REDACTED], Glenn Dale, MD 20769.

CFR 11-Copy of loan document package (no. [REDACTED]) prepared by EquiFirst Corporation of Charlotte, NC.

CFR 12-Copy of letter from Respondent to [REDACTED] dated June 30, 2007.

CFR 13-Copy of Investigation Report, dated September 20, 2007/August 30, 2007, by Calvin Wink, Investigator-Office of the Commissioner of Financial Regulation.

CFR 14-Copy of Investigation Report, dated July 23, 2007, by Calvin Wink, Investigator-Office of the Commissioner of Financial Regulation.

• Respondent, Tyrone Frisby, did not offer any documents or other items into evidence.²

¹ As a preliminary matter, Kris King, AAG, offered an oral modification to the charge letter deleting the word "correctly" on page 2, paragraph 4 in the allegations of fact. Mr. King stated that this modification does not change the nature or the substance of the charges against the Respondent. The Deputy Commissioner agrees and notes that this modification has no impact on the decision in this case.

² Respondent sent Commissioner Sarah Bloom Raskin a letter dated March 16, 2007, apparently attempting to enter

FINDINGS OF FACT

From the testimony and exhibits presented, and with the opportunity to observe the demeanor of the witnesses and to assess their credibility, the Deputy Commissioner finds the relevant facts to be these:

1. Respondent is a duly licensed mortgage originator under FI § 11-601 *et seq.* [CFR 5].
2. In 2004, Respondent assisted the Thomsons with obtaining a refinance of their mortgage loan for the [REDACTED] home located at [REDACTED], Lanham, Maryland (the "[REDACTED] Property"). [Testimony of [REDACTED]; Testimony of Respondent].
3. Respondent had actual knowledge of the [REDACTED] income as a result of the 2004 [REDACTED] Property refinance (a full documentation loan). [Testimony of [REDACTED]; Testimony of Respondent; CFR 6].
4. In or around May, 2006, Respondent assisted the [REDACTED] with obtaining a second refinance of the mortgage loan for the [REDACTED] Property. [Testimony of [REDACTED]; Testimony of Respondent].
5. The purpose of the refinance was to obtain cash to be used as a down payment by the [REDACTED] for the purchase of a new home located at [REDACTED], Glenn Dale, Maryland 20769 (the "[REDACTED] Property"). [Testimony of [REDACTED]].
6. Respondent had actual knowledge of the [REDACTED] income as a result of the 2006 refinance of the [REDACTED] Property. [Testimony of [REDACTED]; Testimony of Respondent; CFR 7 and 8].

additional evidence into the record after it closed. Assistant Attorney General Kris King, by letter dated March 20, 2008 objected to the entry of this additional evidence into the record. We find persuasive Mr. King's argument that to permit this additional documentation into the record outside the formal hearing process would be fundamentally unfair. Mr. King would have no opportunity to cross-examine the witness in connection with this evidence or to otherwise challenge it. Respondent had ample opportunity to offer evidence at the hearing, but declined to do so.

7. In or around July, 2006, Respondent assisted the [REDACTED] with obtaining a purchase money mortgage loan for the [REDACTED] Property. [Testimony of [REDACTED]; Testimony of Respondent].

8. In or around May/June 2007, the [REDACTED] contacted Respondent in connection with refinancing the [REDACTED] Property mortgage loan because the [REDACTED] could not afford their current loan payments. The [REDACTED] ultimately did not take a refinance loan arranged by Respondent. [Testimony of [REDACTED]].

8. In connection with the 2007 [REDACTED] Property proposed refinance, Respondent signed both a typed, and a hand-filled uniform loan application which Respondent prepared on behalf of the [REDACTED] both of which applications misstated the [REDACTED] income, indicating that the [REDACTED] combined monthly income was \$14,700.00. The [REDACTED] actual combined monthly income was approximately \$9,000.00 and was thereby inflated by approximately \$5,700.00. The [REDACTED] did not sign either of these applications. [Testimony of [REDACTED]; Testimony of Respondent; CFR 7 and 8].

9. Respondent stated he knew that the [REDACTED] income set forth in the hand-filled and typed applications was false, but he submitted the typed application to a lender (which ended up being EquiFirst Corporation) in any event. [Testimony of Respondent].

10. In connection with the 2007 [REDACTED] Property proposed refinance, EquiFirst Corporation sent the [REDACTED] a loan document package that included a uniform loan application that stated that [REDACTED] had a monthly income of \$14,000.00 and that [REDACTED] had a monthly income of \$14,000.00. Neither the [REDACTED] nor Respondent signed this application. [CFR 11].

11. Respondent admitted to Calvin Wink, an investigator in the Office of the

The documents are not, therefore, entered into the record.

Commissioner of Financial Regulation, that he put false figures of income on the loan application he submitted to EquiFirst Corporation in connection with the [REDACTED] 2007 proposed loan transaction stating that [REDACTED] had a monthly income of \$14,000.00 and [REDACTED] had a monthly income of \$14,000.00. [Testimony of Calvin Wink; Testimony of Respondent].

12. Respondent knew that the [REDACTED] would not have qualified for the proposed 2007 refinance loan if he had submitted a loan application that set forth the [REDACTED] actual income. [Testimony of Respondent].

CONCLUSIONS OF LAW

Based on the Findings of Fact, the Deputy Commissioner concludes that Respondent has violated FI § 11-615(a)(3) by engaging in illegal or dishonest activities by knowingly misrepresenting and failing to disclose material facts in connection with an application for a mortgage loan. The Deputy Commissioner further finds that Respondent has violated FI § 11-615(a)(5) by engaging in activities that otherwise demonstrate unworthiness, bad faith, and dishonesty, qualities that indicate that the business of Respondent has not been and will not be conducted honestly.

The Deputy Commissioner believes that the actions by Respondent which gave rise to this case are most egregious. Respondent admitted under oath that he knowingly submitted a loan application to a lender on behalf of the [REDACTED] that significantly inflated the [REDACTED] gross monthly income. The Deputy Commissioner finds credible the testimony of Investigator Calvin Wink that he showed Respondent the loan application for the 2007 proposed refinance of the [REDACTED] Property that falsely stated their combined monthly income as \$28,000.00, and that Respondent admitted that he put that false information in the typed package of information that he had submitted to the lender. Respondent, during cross examination by Mr. King, testified that Mr. Wink testified

truthfully when he stated that Respondent had admitted to him putting the false figures on the application. Moreover, Respondent repeatedly testified to entering inflated income amounts for the [REDACTED] on other loan applications. [CFR 7 and 8]. In light of the totality of the evidence and the demeanor and testimony of the witnesses, the Deputy Commissioner finds unconvincing Respondent's contradictory attempt to blame a loan processor for sending EquiFirst Corporation an application with the material misrepresentation that the [REDACTED] had a combined monthly income \$28,000.00 without his knowledge.

Respondent's rationale for his material misrepresentation appears to be that he was permitted to make such false statements pursuant to the stated-income loan program that he was attempting to qualify the [REDACTED] under. This is an unacceptable excuse for what, in a word, is lying. The Deputy Commissioner cannot imagine a more material misrepresentation. Income is perhaps the single most important factor in underwriting a mortgage loan and whether a loan is approved or not typically depends on the borrower's income. Such a material misrepresentation harms not only the lender who may suffer losses because of a bad loan, but also the borrower who ends up with an unsustainable loan. [REDACTED] testified that this is precisely the position she and her husband now find themselves in.

The Deputy Commissioner must conclude that the citizens of Maryland will not be well served, and in fact will be put at risk, if Respondent is permitted to retain his Mortgage Originator's license.

FINAL ORDER

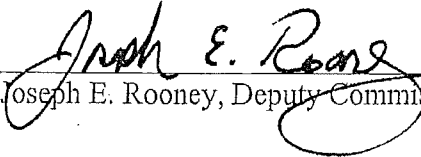
In consideration of the foregoing Findings of Fact and Conclusions of Law, it is this 21st day of April, 2008, hereby **ORDERED** that:

The Mortgage Originator License of Respondent, Tyrone Frisby, is hereby **REVOKED** pursuant to FI §§ 11-615(a)(3) and 11-615(a)(5).

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision, may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after Applicant's receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

COMMISSIONER OF FINANCIAL REGULATION

By:



Joseph E. Rooney, Deputy Commissioner